

## Department of Defense

## 249.109-7

### PART 249—TERMINATION OF CONTRACTS

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36471, July 31, 1991, unless otherwise noted.

#### Subpart 249.1—General Principles

**249.105 Duties of termination contracting officer after issuance of notice of termination.**

##### 249.105-1 Termination status report.

When the contract administration office receives a termination notice, it will, under Report Control Symbol DD-AT&L(AR)1411—

(i) Prepare a DD Form 1598, Contract Termination Status Report;

(ii) Within 30 days, send one copy to the purchasing office and one copy to the headquarters office to which the contract administration office is directly responsible;

(iii) Continue reporting semiannually to cover the 6 month periods ending March and September. The semiannual

reports must be submitted within 30 days after the end of the reporting period; and

(iv) Submit a final report within 30 days after closing the termination case.

[56 FR 36471, July 31, 1991, as amended at 59 FR 27674, May 27, 1994; 64 FR 51077, Sept. 21, 1999; 65 FR 39706, June 27, 2000]

##### 249.105-2 Release of excess funds.

The DD Form 1598, Contract Termination Status Report, may be used to recommend the release of excess funds. The final recommendation to release excess funds should include the appropriations and allocated amounts.

##### 249.106 Fraud or other criminal conduct.

If the TCO suspects fraud or other criminal conduct, the TCO must report the facts in accordance with the procedures at 209.406-3 or 209.407-3.

[64 FR 62986, Nov. 18, 1999]

##### 249.108 Settlement of subcontract settlement proposals.

##### 249.108-4 Authorization for subcontract settlements without approval or ratification.

(a)(1)(ii) Industrial plant equipment included in the inventory—

(1) Is subject to the screening requirements in FAR 45.608.

(2) Shall not be disposed of until screening is completed when the cost of that equipment is used in determining the amount of the claim.

##### 249.109 Settlement agreements.

##### 249.109-7 Settlement by determination.

(a)(i) Use a Standard Form 30 (SF 30), Amendment of Solicitation/Modification of Contract, to settle a convenience termination by determination—

(A) When the contractor has lost its right of appeal because it failed to submit a timely settlement proposal; and

(B) To confirm the determination when the contractor does not appeal the termination contracting officer's decision.

(ii) The effective date of the SF 30 shall be the same as the date of the letter of determination. Do not assign a

supplementary procurement instrument number to the letter of determination. Send a copy of the SF 30 to the contractor by certified mail return receipt requested.

#### 249.110 Negotiation memorandum.

(a)(i) *Fixed price contracts.* Use the format in Table 49-1, Settlement Memorandum-Fixed Price Contracts, for the termination contracting officer's settlement memorandum for fixed price contracts terminated for the con-

venience of the Government. Encourage contractors and subcontractors to use this format, appropriately modified, for subcontract settlements submitted for review and approval.

(ii) *Cost-reimbursement contracts.* Use Part I of the format in Table 49-1 and Part II of the format in Table 49-2, Settlement Memorandum for Cost-Reimbursement Contracts, for the termination contracting officer's settlement memorandum for cost-reimbursement contracts:

TABLE 49-1—SETTLEMENT MEMORANDUM-FIXED PRICE CONTRACTS

#### Part I—General Information

1. Identification. (Identify memorandum as to its purpose and content.)
  - a. Name and address of the contractor. Comment on any pertinent affiliation between prime and subcontractors relative to the overall settlement.
  - b. Names and titles of both contractor and Government personnel who participated in the negotiation.
2. Description of terminated contract.
  - a. Date of contract and contract number.
  - b. Type of contract (e.g., fixed price, fixed price incentive).
  - c. General description of contract items.
  - d. Total contract price.
  - e. Furnish reference to the contract termination clauses (cite FAR/DFARS designation or other special provisions).
3. Termination notice.
  - a. Reference termination notice and state effective date of termination.
  - b. Scope and nature of termination (complete or partial), items terminated, unit price and total price of items terminated.
  - c. State whether termination notice was amended, and explain any amendment.
  - d. State whether contractor stopped work on effective termination date. If not, furnish details.
  - e. State whether the contractor promptly terminated subcontracts.
  - f. Statement as to the diversion of common items and return of goods to suppliers, if any.
  - g. Furnish information as to contract performance and timeliness of deliveries by the contractor.
4. Contractor's settlement proposal.
  - a. Date and amount. Indicate date and location where claim was filed. State gross amount of claim. (If interim settlement proposals were filed, furnish information for each claim.)
  - b. Basis of claim. State whether claim was filed on inventory, total cost or other basis. Explain rationale for approval when claim is filed on other than inventory basis.
  - c. Examination of proposal. State type of reviews made and by whom (audit, engineering, legal, or other).

#### Part II—Summary of Contractor's Claim and Negotiated Settlement

Prepare a summary substantially as follows:

Item claimed	Contractor's proposal	Dollars accepted	Costs questioned	Unresolved items	TCO negotiated amount
1. Contractor's costs as set forth on settlement proposal. Metals, raw materials, etc.. Total.					
2. Profit.					
3. Settlement expenses.					
4. Total.					
5. Settlement with subs.					
6. Acceptable finished product.					
7. Gross Total.					
8. Disposal and other credits.					
9. Net settlement.					
10. Partial, progress & advance payments.					
11. Net payments requested.					